This is in response to the Office Action mailed on October 18, 2005. With this Amendment, independent claims 1 and 3 have been amended. The Application continues to include claims 1-5.

The Office Action rejected claims 1 and 2 under 35 USC §102(e) as being anticipated by the Min U.S. Patent 5,785,648. The Office Action alleged that Min discloses an illuminating system comprising a tubular retractor having a distal end (42), a fiber optic cable (46) disposed within the tubular retractor (34 and 36) that illuminates substantially an entire circumference of the distal end (42) wherein the cable (46) is positioned at least one half inch from the distal end of the retractor.

Independent claim 1 has been amended to specify that the fiber optic cable with its end are encased within a tubular retractor wall such that light from the fiber optic cable illuminates substantially an entire circumference of the distal end of the tubular retractor by transmission of light through the distal end. Support for this is found starting on page 10, line 16 through page 11, line 16 of the application.

Placing the end of the fiber optic cable within the tubular retractor wall such that light transmission occurs through the wall eliminates the problem of fiber optic cables being positioned within the tubular retractor (see application page 11, lines 1-5). Shadows develop on the side of the instrument opposite of the light which distorts the view of the surgeon. This problem is what occurs using the Min device since the fiber optic cables are within the tubular retractor but not encased within the wall. Therefore, placing an instrument within the tubular retractor adjacent the fiber optic cable will cause a shadow on the other side of the cable. Although not specifically stated in Min, this may be a reason for including a multitude of fiber optic cables within the tubular retractor.

In contrast, independent claim 1 as amended states that the fiber optic cable has an end encased within the tubular retractor wall. Consequently, no shadows will occur since light is transmitted through the distal end. In view of this Amendment, claim 1 is not anticipated by the Min patent.

Next, the Office Action rejected claims 3-5 under 35 USC §102(a) as being unpatentable over the Min patent in view of the Wilder et al. U.S. Patent 4,562,832. The Office Action alleges that the Wilder et al. patent which is a light-carrying case is partially encased in the retractor for protection of the fiber optic cable (referring to column 6, lines 64-68).

However, as amended, independent claim 3 along with its respective dependent claims is neither taught nor suggested by the combination. Independent claim 3 has been amended in a fashion similar to independent claim 1 in that the fiber optic cable has been defined as having an end which is at least partially disposed with the end within the light-carrying case wall.

Such a structure is neither taught nor suggested by the combination of the Min patent and the Wilder patent. As discussed previously, the Min patent includes fiber optic cables disposed within the tubular retractor, but not within the retractor walls. With the end of the fiber optic cable disposed within the retractor wall, light from the fiber optic cable illuminates substantially the entire circumference of the distal end of the tubular retractor by transmission of light through the distal end of the fiber optic cable.

In view of the above, it is respectfully requested that claims 3-5 be reconsidered and allowed. It is requested that all of the claims in this application be reconsidered and allowed.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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